

As Engrossed: 3/13/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A BILL ACT 959 OF 1991
HOUSE BILL 2037

4 **By: Representatives M. Wilson, Mahony and Shaver**

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For An Act To Be Entitled

8 "AN ACT TO PROVIDE FOR USE OF ACTIVE OR RETIRED TRIAL OR
9 APPELLATE JUDGES TO SERVE AS SPECIAL COURT OF APPEALS
10 JUDGES IN CERTAIN SITUATIONS; DECLARING AN EMERGENCY; AND
11 FOR OTHER PURPOSES."

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13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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15 SECTION 1. Arkansas Code Annotated §16-12-102 is amended to read as
16 follows:

17 "16-12-102. Election of judges.

18 Except as provided in §16-12-106, all judges of the Court of Appeals
19 shall be elected for full eight-year terms. Each elected judge shall be a
20 resident of the district from which he is elected."

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22 SECTION 2. Arkansas Code Annotated §16-12-106 is amended to add a new
23 subsection as follows:

24 "(c) Whenever the caseload of the Court of Appeals becomes so demanding
25 that the Chief Judge certifies to the Chief Justice of the Supreme Court that
26 there is a need for additional judges in order to promptly decide pending
27 cases or to reduce a backlog, the Chief Justice is authorized to act as
28 follows:

29 (1) *The Chief Justice shall declare that, except for en banc*
30 *cases, the Court of Appeals shall sit in panels consisting of no fewer than*
31 *three (3) judges; further, these panels shall be comprised of at least two (2)*
32 *elected members of the Court of Appeals and one (1) active or retired member*
33 *of the state trial or appellate judiciary who shall be designated as an*
34 *Emergency Court of Appeals Judge.*

35 (2) *The Administrative Office of the Courts shall maintain a list*
36 *of persons eligible and willing to serve as Emergency Court of Appeals Judges*

1 and deliver it to the Chief Justice of the Supreme Court. The Chief Justice
2 shall be responsible for selection of the persons to serve as Emergency Court
3 of Appeals Judges and shall certify those so appointed to the Chief Judge who
4 shall assign them to the various panels created pursuant to this section.

5 (3) These panels shall be authorized to take all action necessary
6 for consideration and resolution of matters before the Court of Appeals,
7 except that petitions for rehearing en banc and cases heard en banc shall only
8 be considered by the elected members of the Court of Appeals.

9 (4) An Emergency Court of Appeals Judge may be assigned the
10 responsibility to write any majority written opinion that the panel deems
11 necessary to issue.

12 (5) All rules and procedures applicable to the Arkansas Supreme
13 Court and the Arkansas Court of Appeals will apply to any case submitted to a
14 panel sitting pursuant to this section.

15 (6) Emergency Court of Appeals Judges serving pursuant to this
16 subsection shall receive reimbursement for any expenses incurred as a result
17 of such service and shall receive no other compensation for their service
18 except that retired judges or justices recalled pursuant to this section shall
19 be compensated as provided in §24-8-221.

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21 SECTION 3. All provisions of this act of a general and permanent nature
22 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
23 Revision Commission shall incorporate the same in the Code.

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25 SECTION 4. If any provision of this act or the application thereof to
26 any person or circumstance is held invalid, such invalidity shall not affect
27 other provisions or applications of the act which can be given effect without
28 the invalid provision or application, and to this end the provisions of this
29 act are declared to be severable.

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31 SECTION 5. All laws and parts of laws in conflict with this act are
32 hereby repealed.

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34 SECTION 6. EMERGENCY. It is hereby found and determined by the
35 Seventy-Eighth General Assembly that the caseload of the Court of Appeals has

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1 risen so dramatically in recent years that it has created the potential for a
2 severe backlog in the prompt decision of matters before the court. This act
3 is necessary to alleviate this backlog particularly since the present normal
4 term of the Court of Appeals would expire before this act would otherwise
5 become effective. Therefore, an emergency is hereby declared to exist and
6 this act being necessary for the immediate preservation of the public peace,
7 health, and safety, shall be in full force and effect from and after its
8 passage and approval.

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/s/M. Wilson, et al

APPROVED: 3/29/91